

**City Commission Meeting**

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
November 21, 2007**

Mayor David Dermer
Vice-Mayor Jerry Libbin
Commissioner Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Michael Góngora
Commissioner Saul Gross
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Jose Smith
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

R5A **11:00 a.m. 2nd Rdg,** Procedures Governing the Issuance of Bonds.

R7A Execute Agreement w/ New World Symphony, City's Public Parking Garage.

R7B Execute a Video & Audio System Agreement w/ New World Symphony.

R7C Appropriate Funds & Award Contract, Multipurpose Municipal Parking Facility.

R7D(1) Accept Certificates of Results of the November 6 General Election (Commission Group V).

R7D(2) Accept Certificates of Results of the November 20 Run-off Election.

A Status Report: New World Symphony Campus Expansion Project.

REDEVELOPMENT AGENCY ITEM

1A Appropriate Funds, Generate Additional Parking Spaces in the Preferred Parking Surface Lot.

Administer the Oath of Office to the Newly Elected Mayor and Commissioners in Group IV, V, & VI.

R7E Elect Commissioner Jerry Libbin as Vice-Mayor, November 21, 2007 to February 29, 2008.

Meeting called to order at 10:23:18 a.m.

REGULAR AGENDA**R5 - Ordinances****11:22:58 a.m.**

- R5A An Ordinance Amending Chapter 2 Of The Code Of The City Of Miami Beach, Florida, By Amending Article V Therein, Entitled "Finance"; By Creating A New Section 2-278, Entitled "Procedures Governing The Issuance Of Bonds,"; Providing For Repealer; Severability; Codification; And An Effective Date. **11:00 a.m. Second Reading Public Hearing**
(Requested by Mayor David Dermer/Finance Department)
(First Reading on October 17, 2007)

ACTION: Public Hearing held. Ordinance No. 2007-3582 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code.

R7 - Resolutions**10:23:56 a.m.**

- R7A A Resolution Approving And Authorizing The Mayor And City Clerk To Execute The Attached License Agreement By And Between The City Of Miami Beach (City And/Or Owner) And The New World Symphony, Inc., A Florida Not-For-Profit Corporation (NWS), Pertaining To The Non-Exclusive Use Of 175 Parking Spaces In The City-Owned Public Parking Garage, Being Designed, Developed And Constructed Concurrent With The NWS Campus Expansion Project (The Garage), In Order For NWS To Temporarily Satisfy Its Parking Requirements, Pursuant To Sections 130-36 And 142-368 Of The City Code; Said License Agreement To Have A Term Of Five (5) Years From The Issuance Of A Temporary Certificate Of Occupancy (Or Certificate Of Occupancy, Whichever Is Applicable) For The Garage Or Such Time That Parking Becomes Available To NWS At The Property Provided For In The Covenant In Lieu Of Unity Of Title On Behalf Of The Owner, The NWS And 420 Lincoln Road Associates, Inc., Executed On July 12, 2006, Whichever Is Earlier.
(Economic Development)

ACTION: Resolution No. 2007-26704 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Gross; Voice vote: 7-0. **Tim Hemstreet to handle.**

Jorge Gonzalez, City Manager, explained that items R7A, R7B and R7C are related to the NWS and the expansion project approved for the City Center parking lots between Lincoln Road and the Jackie Gleason Theatre. Pursuant to the City Commission's request at the last meeting, the Administration worked through some opened issues that needed resolution: 1) final arrangements on how the video screen is to be managed and operated, in particular as it relates to the uses that the City was being provided; 2) to look at the financial means of the organization to ensure they were able to meet their obligations in the construction of this project, as there are some outstanding capital revenues they were securing; and 3) the issue of how to deal with the required parking that is triggered by virtue of this construction. He explained that from a zoning perspective, there is a parking requirement of 175 spaces that is triggered, and the anticipated solution was the construction project that is part of the 420 Lincoln Road project. He added that Paul Cejas project, the mixed-use development project, was going to satisfy that parking requirement; but unfortunately, due to reasons beyond his control, his project has lagged behind the NWS and therefore those spaces will not be available. The City needs to work with the NWS to resolve the parking issue and how to address the zoning requirement (see Agenda item RDA 1A). Finally, there was a concern from the Commission in general about parking in the area during the construction phases and the impact to businesses and residents and how the City might mitigate any parking shortage. The Administration will present to the Commission the sequencing of the construction and will explain the plan proposed to try to mitigate the parking crunch. The

Administration has done a very good job in identifying parking solutions but parking will continue to be a problem. He added that regarding the issues with the screen, just this morning there is language that has been agreed upon regarding control, quality of the product, content and use of the video screen and the NWS is prepared to move on with the project as agreed.

Tim Hemstreet, Assistant City Manager, gave an overview of the video and audio discussions between the NWS and the Administration.

Jorge Gonzalez, City Manager, explained that the NWS is ready to pull their building permit to begin the construction and this action is needed in order for them to continue. Item R7B deals with the video screen and R7A deals with the required parking. The Administration proposes to provide a license agreement for parking in the garage that is going to be built for the NWS of 175 spaces for five years, with the idea to buy enough time to have Paul Cejas project proceed, and at that time when that project is built, those will then encumber the required parking spaces and the license agreement will terminate. Language has been added that if for some reason that license triggers a taxable event on the City's garage, the NWS will bear the cost of paying for the property taxes associated with that impact.

Handout or Reference Materials:

1. NWS Campus Expansion, Garage and Park Schedule (Attachment 1)

10:31:54 a.m.

R7B A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Video And Audio System Agreement With New World Symphony, Inc., A Florida Not For Profit Corporation, (NWS); Said Agreement Pertaining To The Management, Operation, Scheduling, And Content Of Programming Of That Certain Video System (Formerly Referred To As The "Screen" In The NWS Development And Lease Agreements) Intended To Be Built And Integrated On To The Exterior Of The Proposed NWS Facility (The Building), And The NWS And City Audio Systems, To Be Installed, Respectively, Within The NWS's Improvements, And Within The Park Project And The Garage.

(Economic Development)

ACTION: Resolution No. 2007-26705 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Góngora; Voice vote: 7-0. **Tim Hemstreet to handle.**

See Action in R7A.

Handout or Reference Materials:

1. Language draft with editions and deletions.

10:53:04 a.m.

R7C A Resolution Approving And Authorizing The Appropriation Of Funds, In The Amount Of \$7,868,861 (With \$6,606,111, From Parking Impact Fees, Fund 155, And \$1,262,750 From Parking Operations Fund 480, With The Balance Of The Funding Available From Previously Appropriated Funding From Funds 480, 155, And 365 In The Fiscal Year (FY) 2006-2007 Capital Budget), And Awarding A Contract To The Tower Group, Pursuant To Invitation To Bid (ITB) No. 34-06/07, For The Multipurpose Municipal Parking Facility Bid Package 03-Garage & Office Building Complex In The Amount Of \$26,769,000.

(Capital Improvement Projects)

ACTION: Resolution No. 2007-26706 adopted. Motion made by Commissioner Gross; seconded by Commissioner Bower; Voice vote: 7-0. Patricia Walker to appropriate the funds. **Jorge Chartrand to handle.**

Jorge Gonzalez, City Manager, explained that this item, related to the NWS, is a final component of the parking strategy to construct a municipal parking garage west of City Hall; the project was divided into phases and the final piece is the actual parking structure to be built. A bid process took place and the recommendation was awarded to Tower Group; at that time bid protests were received and as a result it was felt that the best course of action was to withdraw the item from the October meeting, review the bid protests in detail, and bring back to the Commission at this meeting. He added that, in his opinion, there were no issues in the bid protest relative to their qualifications. He strongly recommends the Tower Group as the lowest responsible firm; they are also over a \$1 million dollar lower than the second firm and over \$3 million over the third firm.

Raul Aguila, First Assistant City Attorney, explained the status of the bid protest from Team Contracting (Ranked #2) and MCM Group (Ranked #3); these were responded to on November 15 and he asked that the responses be made part of the record. Both bidders challenged the bid on grounds of responsiveness and responsibility. Regarding responsiveness, under the bid protest ordinance, the City Attorney and City Manager are charged with determining if a bid is responsive. The City Attorney and City Manager certified that all three bids were responsive; therefore, responsiveness is not an issue in front of this Commission.

Motion made by Commissioner Gross; seconded by Commissioner Bower.

Vice-Mayor Libbin asked Tower Group representative, for the record, to explain if the issue of risk assessment plan was included in the bid as described in pages 116 and 117.

Carlos Ardavin, Jr., Executive Vice-President of Tower Group, stated that the issue of risk assessment plan was included in the bid. He clarified that it was a recommendation to the City to include.

Tim Hemstreet, Assistant City Manager, explained that the bid itself requires the contractor to purchase a builder's risk policy. One of the contractors asked a specific question as to whether or not the City wanted all the contractors to carry the windstorm policy rider, and the answer was that it was not required. He added that the Tower Group will cover up to \$3 million.

Carlos Ardavin, Jr., Executive Vice-President of Tower Group, clarified that his company included the builder's risk policy requirement as requested and, in answering Vice-Mayor Libbin's questions, added that the downtime for hurricane is included in the bid; but that the wind policy was not required.

Jorge Gonzalez, City Manager, stated that none of the three included a wind policy; it was not required.

Discussion continued.

Commissioner Gross asked that the contract reflect the issues being raised.

Raul Aguila, First Assistant City Attorney, for the record, stated that the items included in the interpretation must be considered in the base bid.

Discussion continued.

Commissioner Góngora made reference to a letter from MCM stating that Tower was acquired by a foreign company with a history of late performance; and that MCM was recently terminated by the Palm Beach County Solid Waste Authority.

Jorge Gonzalez, City Manager, explained that all firms were afforded their time period by which they could submit their allegations or protests, and what was received yesterday was clear beyond the time frame to which the Administration created a window for and is outside of the scope.

Discussion continued.

Commissioner Góngora again referenced MCM's letter regarding the amount of the bid.

Carlos Ardavin, Jr., Executive Vice-President of Tower Group, stated that he included everything he was required to include.

Jorge Gonzalez, City Manager, in answering Commissioner Góngora's questions, clarified that this item is not bid as Guaranteed Maximum Price, (GMP), and what is being proposed by one of the bidders is to try to turn it into a GMP, but a bid cannot be changed along the way. In this instance the Administration used an Invitation to Bid using the best valued Procurement methodology, which asked for additional items beyond strictly price and credentials; and what was asked for was the lowest and best. This firm is the lowest and best. This is a lump-sum agreement.

Handout or Reference Material

1. Email from Michael J. Kurzman, Esq., to Gus Lopez, Procurement Director, dated November 20, 2007 at 11:29 a.m., RE: Agenda Item R7C – Approving and authorizing the appropriation of funds and award of contract to The Tower Group, with Mr. Lopez's response attached.
2. Email from Michael J. Kurzman, Esq., to Gus Lopez, Procurement Director, dated November 20, 2007 at 11:37 a.m., RE: Agenda Item R7C – Approving and authorizing the appropriation of funds and award of contract to The Tower Group, with Mr. Lopez's response attached.
3. Letter from Carlos Ardavin, Jr., Executive Vice President, The Tower Group to Mr. Gus Lopez, Procurement Director, dated October 24, 2007, RE: Affidavit of Lauro Bravar – Multipurpose Parking Facility (ITB No. 34-06/07)
4. Letter from Alexander P. Heckler and Michael J. McAllister to Jorge M. Gonzalez, City Manager, dated November 6, 2007, RE: MCM Construction: Bid Protest of Award to The Tower Group – Update ITB No. 34-06/07, Multipurpose Municipal Parking Facility
5. Letter to Michael J. Kurzman from Jorge Gonzalez, City Manager, dated November 15, 2007 RE: Invitation to Bid (ITB) 34-06/07 – Multipurpose Municipal Parking Facility Bid Package 03 – Garage & Office Building Complex (Except Tenant Build-out) (the "ITB")
6. Letter to Michael J. McAllister from Jorge Gonzalez, City Manager, dated November 15, 2007 RE: Invitation to Bid (ITB) 34-06/07 – Multipurpose Municipal Parking Facility Bid Package 03 – Garage & Office Building Complex (Except Tenant Build-out) (the "ITB")

11:23:58 a.m.

R7D City Resolutions Accepting Certificates Of Results Of November 6, 2007 General Election And November 20, 2007 Run-Off Election

1. A Resolution Adopting The Certificate Of The Final Election Results Of The November 6, 2007 General Election Re: Commission Group V (Subsequent To Mandatory Recount) For The City Of Miami Beach.

ACTION: Resolution No. 2007-26707 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Gross; Voice vote: 7-0.

2. A Resolution Adopting The Certificate Of The Results Of The November 20, 2007 Run-Off Election For The City Of Miami Beach, And Declaring Candidates Elected.
(City Attorney's Office)

ACTION: Resolution No. 2007-26708 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Gross; Voice vote: 7-0.

12:02:47 p.m.**Administer Oath of Office To The Newly Elected Mayor and Commissioners in Group IV, V and VI.**

Mayor Dermer introduced Jonah Wolfson as the new elected Commissioner in Group IV and the oath was administered by Judge Peter Lopez.

Mayor Dermer introduced Ed Tobin as the new elected Commissioner in Group V and the oath was administered by Fredric Karlton, Notary.

Mayor Dermer introduced Deede Weithorn as the new elected Commissioner in Group VI and the oath was administered by Judge Peter Lopez.

Mayor Dermer introduced Matti Herrera Bower as the new elected Mayor and the oath was administered by Judge Peter Lopez.

Handout or Reference materials:

1. Oaths for Mayor Bower and Commissioners Wolfson, Tobin and Weithorn.

12:15:51 p.m.

Mayor Matti Herrera Bower welcomed the new Commissioners and asked for individual comments.

12:16:27 p.m.

Commissioner Weithorn thanked the citizens of Miami Beach; she explained she is honored to have been elected and hopes that she can make the people of Miami Beach proud; she thanked each and every one of those who supported her, especially her family. She also congratulated the new elected officials.

12:17:39 p.m.

Commissioner Wolfson expressed his sincere gratitude to his family and supporters. He added that the process of door-to-door campaign was one of the greatest experiences in his life and thanked the people of Miami Beach for opening their doors, for signing the petition and casting their votes. He pledged to continue fighting to make the government ethical and bring the government back to the people. He added that he is pleased to serve with such intelligent, bright and capable individuals and wished everyone Happy Thanksgiving.

12:20:39 p.m.

Commissioner Tobin began by thanking everyone; he is honored and humbled that the people of Miami Beach chose him to help take care of the City. He plans to not only serve those who voted for him but to earn the trust of those who did not support him. He thanked his wife, Yvette, his in-laws and brother-in-law and his son Jacob and daughter Juliette; his mom Beverly for her teachings and to the rest of the family and friends. He also thanked his friends Fredric Karlton, the Gelber's family and David Dermer in particular for doing such a great job with the City. He wished all a Happy Thanksgiving.

Victory Party slide show was shown.

12:28:47 p.m.

Mayor Bower stated that this was a hard campaign and from the very beginning she was told she could not do it, but as an activist for over 30 years, she learned that when one starts something that goes against the tide, the first answer one gets is "no," and the more they say "no," the more she says it can be done. This is not something that was done alone, but in the beginning a few people believed in her and the campaign was hard but very well worth it lasting for almost six months, and because it was a long campaign she kept gaining support from this wonderful community that has flourished under the leadership of David Dermer, who moved the City with honesty, integrity and lots of transparency. After an election, there are those that are for you or against you, but at this moment, this community is together moving the City forward. She added that David's support was very critical and she will always be grateful to him; she also thanked County Commissioner Barreiro, and her family, her husband Richard, they were all there from the beginning. She also thanked Commissioner Gross, his wife Jane for their support, and Commissioner Wolfson for endorsing her and all the volunteers that helped her.

12:44:04 a.m.

R7E A Resolution Electing Commissioner Jerry Libbin As Vice-Mayor For A Term Commencing On November 21, 2007 And Terminating On February 29, 2008, Or On Such Date When A New Vice-Mayor Is Thereafter Elected.

(City Clerk's Office)

ACTION: Resolution No. 2007-26709 adopted. Motion made by Commissioner Gross; seconded by Commissioner Steinberg; Voice vote: 7-0. **Robert Parcher to handle.**

Reports and Informational Items

A Status Report - New World Symphony Campus Expansion Project.
(City Manager's Office)

ACTION: Written report submitted.

End of Regular Agenda

Miami Beach Redevelopment Agency

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
November 21, 2007

Chairman of the Board David Dermer
Member of the Board Matti Herrera Bower
Member of the Board Simon Cruz
Member of the Board Michael Góngora
Member of the Board Saul Gross
Member of the Board Jerry Libbin
Member of the Board Richard L. Steinberg

Executive Director Jorge M. Gonzalez
Assistant Director Tim Hemstreet
General Counsel Jose Smith
Secretary Robert E. Parcher

AGENDA

10:35:56 a.m.

1. NEW BUSINESS

- A A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency, Approving And Authorizing The Appropriation Of Funds, In The Amount Of \$590,000, From City Center RDA Fund 168 (\$540,000 For Construction And \$50,000 For Contingency) To Generate Additional Parking Spaces In The Preferred Parking Surface Lot Located North Of City Hall`.

ACTION: Resolution No. 554-2007 adopted. Motion made by Vice-Mayor Libbin; seconded by Commissioner Gross; Voice vote: 7-0. Patricia Walker to appropriate funds. **Jorge Chartrand to handle.**

Jorge Gonzalez, City Manager, introduced the item regarding parking management strategy.

Saul Frances, Parking Director, stated the recommendations and explained that the total loss of space would be 300 and 225 of those 300 spaces and the balance will be achieved through space management. Also the reserve spaces for Sony, the Delano Hotel, and National Hotel in the 17th Street Garage will no longer be reserved. In addition the Delano was requested to reduce their parking requirements from 85 spaces to 60 and the National Hotel from 50 to 25 and both have agreed. The Loews Hotel has 330 parkers in the 17th Street Garage and 30 are being relocated to the Anchor Garage. After all the shifting there is a net gain of 16 spaces.

Commissioner Gross commended Saul Frances, Parking Department, for responding to this challenge but stated that he believes the analysis underemphasizes the parking crunch at lunch time in the Lincoln Road area.

Discussion held.

Commissioner Gross suggested looking at all landscape opportunities available to soften the "asphalt heavy" look, because when the new garage is built, it will change the character of Meridian and Convention Center Drive. He added that perhaps Chen and Associates can provide some assistance.

Commissioner Bower suggested using the street as parking and leaving the green space on Washington Avenue intact.

Tim Hemstreet, Assistant City Manager, explained that there are some issues from a permitting perspective from Miami-Dade County that the Administration is working through and they are requesting a traffic study in a larger area than anticipated.

Jorge Gonzalez, City Manager, stated that the Administration will work with the County during phase two and will come back to Commission with a report. **Tim Hemstreet to handle.**

Vice-Mayor Libbin congratulated Saul Frances, Parking Director, and the Administration for bringing these alternatives and if, and when another opportunity presents itself this Commission has to be open minded to satisfy parking requirements.

Commissioner Steinberg stated that this project is great for Lincoln Road, and he hopes the Parking Department will look at other areas of Miami Beach where parking is an issue and use the same approach and make a neighborhood by neighborhood analysis to create more parking in the City.

Saul Frances, Parking Department Director, explained that staff has considered the same concept in order to gain spaces.

Jorge Gonzalez, City Manager, stated that each neighborhood is unique and some have more facilities than others and added that the City is actively maximizing spaces and agreed that it needs to do more with each neighborhood.

Discussion continued.

End of RDA Agenda

Meeting adjourned at 12:44:48 p.m.